IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 7631 of 2004

Between:
M/s Madhavi Steels, Near Paluru Dam, Attili, West Godavari District, rep. by its Proprietrix Smt. V. Madhavi.

..... PETITIONER

AND

1 The Commercial Tax Officer-II, Tanuku.
2 The Appellate Deputy Commissioner (CT), Vijayawada Division, Vijayawada.
3 The Additional Commissioner CT)(L), Andhra Pradesh, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ or order or direction particularly one in the nature of Writ of Mandamus granting stay of collection of the disputed penalty of Rs. 50,034/- being 50% of the disputed penalty, which was ordered to be paid by the third respondent by his proceedings dated 25-3-2004 in CCT's Ref.LV(2)/1468/2003 for the year 1998-99 under the APGST Act, pending disposal of the appeal before the Sales Tax Appellate Tribunal.

For the Petitioner:MR.SKRISHNA MURTHY, Advocate.

For the Respondents Nos. 1 to 3 : The Government Pleader FOR COMMERCIAL TAXES

The Court Made the Following :

ORDER : (Per Sri Bilal Nazki, J).

This is a Writ Petition filed against an order passed by Additional Commissioner of Commercial Taxes on 25.3.2004 in an application for stay, pending appeal before the Tribunal. The Additional Commissioner has stayed the collection of tax subject to the condition of deposit of 50% of the disputed penalty.

We do not find any illegality in the order passed by the Additional Commissioner, who has exercised the jurisdiction fairly. The learned Counsel for petitioner however submits that the penalty had been imposed without jurisdiction. These matters are pending before the appellate authority and will have to be considered by the appellate authority. We restrain ourselves to go into such questions at this stage because any observation by us would prejudice either of the parties in the appeal. However in the interest of justice, we grant four weeks time from today to deposit the amount in pursuance of the order of the Additional Commissioner.

The Writ Petition has no merits, which is accordingly dismissed. No costs.

ASST.REGISTRAR

23rd June, 2004.

//True Copy//

SECTION OFFICER

ajr.

To:

1 The Commercial Tax Officer-II, Tanuku.
2 The Appellate Deputy Commissioner (CT), Vijayawada Division, Vijayawada.
3 The Additional Commissioner CT)(L), Andhra Pradesh, Hyderabad.
4 Two C.Cs. to the Government Pleader for Commercial Taxes, High Court buildings, Hyderabad (O.U.T).
5 Two C.D. copies.